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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,846	12/28/2001	Linda M. Dorschner	KCC 4846 (KC# 16,993)	9653
7590 09/01/2004 Senniger Powers Leavitt & Roedel One Metropolitan Square 16th Floor Street St Louis, MO 63102			EXAMINER REICHLE, KARIN M	
			ART UNIT 3761	PAPER NUMBER

DATE MAILED: 09/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/034,846

Applicant(s)

DORSCHNER, LINDA M.

Examiner

Karin M. Reichle

Art Unit

3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 83-93, 100-102, 105 and 106.

Claim(s) withdrawn from consideration: 70-82, 94, 96-98, 103 and 104.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

K.M. Reichle
Karin M. Reichle
Primary Examiner
Art Unit: 3761

Continuation of 2. NOTE: The proposed amendment to the specification raises a new issue under 37 CFR 1.121 because new paragraphs should not be underlined. Also the additional limitation to claim 105 would require further consideration and/or search. Applicants remarks with respect to rejection based on Clear in the FINAL are narrower than the disclosure of the enumerated portions thereof, i.e. the portions on pages 12 and 13 disclose the fit panels extend from the ends of the core and the fit panel in the rear can be longer than that in the front. Applicants remarks with respect to the rejection based on Roe in the FINAL are narrower than the disclosure of the enumerated portions thereof and the claim language, i.e. the claims do not require the core be located at the stretchable portion of the at least one of the liner and outer cover and Roe discloses the waistband is an extension of the liner and outer cover and that such are elasticized as disclosed by Buell '092 which '092 discloses that such elastication includes stretching of the liner and outer cover, i.e. the liner and outer cover are stretchable as claimed.